

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

MARTIN J. WALSH, Secretary of Labor,)
United States Department of Labor,)
Plaintiff,)
v.) Civil action no.:
HEAL AT HOME, LLC, an Indiana company;)
TPS CAREGIVING, LLC d/b/a COMFORT)
KEEPERS, an Indiana Company;)
and TIMOTHY PAUL, an individual,)
Defendants.)
)

COMPLAINT

Plaintiff, **MARTIN J. WALSH**, Secretary of Labor, United States Department of Labor, brings this action to enjoin defendants **HEAL AT HOME, LLC**, an Indiana company; **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS**, an Indiana company; and **TIMOTHY PAUL**, an individual (hereinafter collectively “defendants”) from violating the provisions of sections 7 and 15 of the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. § 201, *et seq.*), (hereinafter “the Act”), pursuant to section 17 of the Act; and to recover unpaid overtime compensation owing to defendants’ employees, together with an equal amount as liquidated damages, pursuant to section 16(c) of the Act.

I

Jurisdiction of this action is conferred upon the court by sections 16(c) and 17 of the Act and 28 U.S.C. § 1345.

II

A. Defendant **HEAL AT HOME, LLC** is and, at all times hereinafter mentioned, was a company with a place of business at 1335 Sadler Circle East Drive, Indianapolis, Indiana 46239, within the jurisdiction of this court, and is and, at all times hereinafter mentioned, was engaged in operating a home healthcare agency.

B. Defendant **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** is and, at all times hereinafter mentioned, was a company with a place of business at 1335 Sadler Circle East Drive, Indianapolis, Indiana 46239, within the jurisdiction of this court, and is and, at all times hereinafter mentioned, was engaged in operating a home healthcare agency.

C. Defendant **TIMOTHY PAUL**, an individual, is the president and sole owner of defendants **HEAL AT HOME, LLC** and **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** and, at all times hereinafter mentioned, actively supervised the day-to-day operations and management of the company defendants in relation to defendants' employees including, but not limited to hiring and firing employees, directing work, and controlling pay practices. At all times hereinafter mentioned, defendant **TIMOTHY PAUL** was engaged in business within Marion County at 1335 Sadler Circle East Drive, Indianapolis, Indiana, within the jurisdiction of this court. **TIMOTHY PAUL** acted directly or indirectly in the interest of defendants **HEAL AT HOME, LLC** and **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** in relation to its employees and is an employer within the meaning of section 3(d) of the Act.

III

Defendants **HEAL AT HOME, LLC** and **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** are joint employers within the meaning of the Act in that defendants **HEAL AT HOME, LLC** and **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** have

arrangements to share or interchange employees' services, act directly or indirectly in the interest of the other in relation to employees, share a common business location and worksites, share clients and patients, and share control of employees because defendants are under the common control of defendant, **TIMOTHY PAUL**.

IV

Each company defendant is and, at all times hereinafter mentioned, was engaged in related activities performed through unified operation or common control for a common business purpose and is and, at all times hereinafter mentioned, was an enterprise within the meaning of section 3(r) of the Act.

V

Each company defendant is and, at all times hereinafter mentioned, was an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act in that said enterprise at all times hereinafter mentioned had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise has and has had an annual gross volume of sales made or business done of not less than \$500,000.

VI

Defendants repeatedly violated the provisions of sections 7 and 15(a)(2) of the Act, by employing many of their employees who in workweeks were engaged in commerce or in the production of goods for commerce, or who were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as

aforesaid, for workweeks longer than forty hours without compensating said employees for their employment in excess of forty hours per week during such workweeks at rates not less than one and one-half times the regular rate at which they were employed. Specifically, Defendants failed to combine hours worked at both companies, **HEAL AT HOME, LLC** and **TPS CAREGIVING, LLC d/b/a COMFORT KEEPERS** for purposes of calculating overtime premiums.

- A. Defendants' employees regularly performed work for both companies in each workweek.
- B. Defendants did not combine these hours worked for purposes of calculating employee overtime premiums.
- C. Because Defendant's failed to combine employee hours worked for each company, Defendants did not pay these employees one and one-half times their regular rate for hours worked in excess of forty hours in a workweek.

VIII

During the period since April 30, 2019, defendants repeatedly violated the aforesaid provisions of the Act. A judgment which enjoins and restrains such violations and includes the restraint of any withholding of payment of unpaid overtime compensation found by the court to be due to present and former employees under the Act is expressly authorized by section 17 of the Act.

WHEREFORE, cause having been shown, plaintiff prays for a judgment against defendants as follows:

- (a) For an Order pursuant to section 17 of the Act, permanently enjoining and restraining defendants, their officers, agents, servants, employees, and those persons in active

concert or participation with them from prospectively violating the provisions of section 15 of the Act; and

(b) For an Order

(1) pursuant to section 16(c) of the Act finding defendants liable for unpaid overtime compensation due defendants' employees and for liquidated damages equal in amount to the unpaid compensation found due defendants' employees listed in the attached Exhibit A (additional back wages and liquidated damages may be owed to certain employees presently unknown to plaintiff for the period covered by this complaint); or in the event liquidated damages are not awarded,

(2) pursuant to section 17, enjoining and restraining defendants, their officers, agents, servants, employees and those persons in active concert or participation with defendants, from withholding payment of overtime compensation found to be due defendants' employees and pre-judgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. § 6621; and

(c) For an Order awarding plaintiff the costs of this action; and

(d) For an Order granting such other and further relief as may be necessary or appropriate.

Respectfully submitted,

SEEMA NANDA
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ David J. Tanury
DAVID J. TANURY
Senior Trial Attorney

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Attorneys for **MARTIN J. WALSH**,
Secretary of Labor, United States
Department of Labor, Plaintiff

Exhibit A

1. Abbott, Lori
2. Aleman-Anderson, Desdent
3. Alexander, Seda
4. Allen, Valerie
5. Allender, Latisha
6. Anderson, Aneka
7. Anthony, Brittany
8. Argueta, Katia
9. Arney, Julie
10. Bargue, Jannah
11. Barlow, Annie
12. Barnes, Jeanine
13. Bilbrey, Lory
14. Blades, Zakita
15. Bobbitt-Brumley, Kimberly
16. Boling, Tiarra
17. Bond, Tina
18. Bostic, Natalia
19. Bradford, Diamond
20. Breaux, Heather
21. Brinegar, Kim
22. Broner, Michael
23. Brooks, Shawnyee
24. Brown, Helen
25. Brown, Tanya
26. Browning, Abigail
27. Bryant, Tequila
28. Bryson, Amandalynn
29. Buckallew, Steven
30. Burchett, Kaitlyn
31. Burrage, De'Andre
32. Burrage, La'Kesha
33. Burrage, Sharika
34. Burris, Ruby
35. Cadle, Markeeda
36. Campos De Rea, Angela
37. Carlton, Brittany
38. Carlton, Donna
39. Carollo, Brenda
40. Carter, Laron
41. Castle, Lorie
42. Chappell, Justin
43. Coffman, Audra

44. Coleman, Lauren
45. Collier, Deeanna
46. Collins, Angela
47. Collins, Shirley
48. Cook, Samantha
49. Crain, Suzanne
50. Crenshaw, Kathy
51. Crowe, Monique
52. Dailey, Chantay
53. Demner, Bridget
54. Dominguez, Karen
55. Dorsey, Marge
56. Doss, Elizabeth
57. Douglas, Nickole
58. Duff, Ebony
59. Duncum, Debra
60. Dusenbery, Kory
61. Elliott, Jasmine
62. Exford, Nyasia
63. Falkner, Awilda
64. Fischer, Marie
65. Flora, Amy
66. Flowers, Ramona
67. Freeman, Dena
68. Gemlich, Jean
69. Hardiman, Tabatha
70. Harris, Linda
71. Harris, Shante
72. Hatch, Robin
73. Heard, Tracy
74. Hicks, Demetrice
75. Hitchings, Valerie
76. Hollenquest, Dorothy
77. Howard, Marah
78. Hubble, Brandy
79. Humphrey, Vajhon
80. Hyatt, Heather
81. Jackson, Anthony
82. Jackson, Kimberlee
83. Jackson-Taylor, Eboney
84. Jenkins, Monique
85. Johnson, Tiffany
86. Jones, Barbara
87. Jones, Charlotte
88. Jones, Deanna

89. Jones, Shenita
90. Journey, Esther
91. Kaufman, Kathaleena
92. Kennedy, Patricia
93. Kirkland, Betty
94. Lafayette, Denise
95. Lawrence, Yolanda
96. Lewis, Angela
97. Lewis, Gwendolyn
98. Lewis, Maxina
99. Lewis, Michele
100. Lewis, Sherrie
101. Linaresgalarza, Ivonne
102. Luckett, Christina
103. Majors, Candice
104. Maldonado, Sara
105. Mays, Brittany
106. McCloud, Tecriscia
107. McDowell-Rutherford, Kimberly
108. McGhee, Monique
109. McNeill, Coutrese
110. Miller, Jill
111. Milligan, Theresa
112. Moldon, Michael
113. Montgomery, Michelle
114. Moore, Laura
115. Morgan, Camella
116. Morse, Tamika
117. Murrell, Zaray
118. Nelson, Robin
119. Nkoma, Sofa
120. Noel, Paul
121. O'neil, Janique
122. Outlaw, Katherine
123. Owings, Jennifer
124. Parks, Toni
125. Parksey, Donna
126. Patterson, Shanise
127. Patterson, Taneka
128. Pearson, Ebbony
129. Posey, LaDonna
130. Ramsey, Pamela
131. Rice, Melissa
132. Roberts, Holly
133. Roberts, Loretta

- 134. Robinson, Debra
- 135. Rotramel, Laurie
- 136. Runions, Michele
- 137. Shockey, Madison
- 138. Silva, Angela
- 139. Simms-Holbrook, Sandra
- 140. Sims, Carrie
- 141. Sims, Tequila
- 142. Smith, Arieal
- 143. Smith, Sheril
- 144. Spurr, Amy
- 145. Starks, Kimberly
- 146. Steele, Bobbie
- 147. Sturdivant, Candace
- 148. Tharp, Carlotta
- 149. Thrash-Holmes, Devonne
- 150. Toles, Barbara
- 151. Townsend, Kim
- 152. Trice, Takeysha
- 153. Vaughn, Kara
- 154. Velez, Evie
- 155. Walton, Shannessy
- 156. Watts, Delta
- 157. White, Janis
- 158. White-Evans, Judilyn
- 159. Wilder, Annette
- 160. Williams, Priscilla
- 161. Wilson, Kanite
- 162. Winston, Renada
- 163. Woodard, Nicole
- 164. Woods, Lakeisha
- 165. Woods, Lindsay
- 166. Woolly, Beth
- 167. Yeager, Amy
- 168. Yekinni, Karibat
- 169. Young, Aliesha
- 170. Young, Wanique
- 171. Younger, Robyn